

Senate File 2225 - Introduced

SENATE FILE 2225
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2147)
(SUCCESSOR TO SSB 3077)

A BILL FOR

1 An Act providing for the doubling of criminal fines and civil
2 penalties in disaster areas, providing penalties, and
3 including effective date provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 902.15 Criminal offenses committed
2 in federal and state disaster areas.

3 1. When the president of the United States declares a major
4 disaster exists in this state, or the governor proclaims a
5 state of disaster emergency exists pursuant to section 29C.6,
6 the court may double the minimum fine pursuant to section 902.9
7 or the minimum civil penalty pursuant to section 907.14 for
8 the following felony criminal offenses committed against or
9 involving disaster-affected property in a disaster area if the
10 offender knew or reasonably should have known the property was
11 disaster-affected:

12 a. Robbery in violation of section 711.3.

13 b. Extortion in violation of section 711.4, subsection 7.

14 c. Arson in violation of section 712.3.

15 d. Explosive or incendiary material or device offenses in
16 violation of section 712.6, subsection 1.

17 e. Burglary-related offenses in violation of section 713.4,
18 713.5, 713.6, or 713.6A, subsection 1.

19 f. Theft offenses in violation of section 714.2, subsection
20 1 or 2.

21 g. Criminal mischief offenses in violation of section 716.3
22 or 716.4.

23 2. For purposes of this section, property shall be
24 considered disaster-affected if the property sustained more
25 than de minimis structural damage in the disaster. Factors
26 to be considered in determining whether the offender knew or
27 reasonably should have known the property was disaster-affected
28 include but are not limited to the following: the visibility
29 of the structural damage; the repair work, if any, performed
30 or in the process of being performed on the affected property;
31 and whether any notice was posted on the affected property
32 indicating that certain crimes committed on such property are
33 subject to the doubling of fines and penalties. Notice may
34 but is not required to be posted on the property indicating
35 the property was disaster-affected and that certain crimes

1 committed on the property are subject to the doubling of fines
2 and penalties.

3 3. The doubling of fines and civil penalties pursuant to
4 this section shall apply to criminal offenses identified in
5 this section committed during the incident period under the
6 disaster declaration or proclamation and for three years after
7 the end date of the incident period.

8 Sec. 2. NEW SECTION. 903.7 Criminal offenses committed in
9 federal and state disaster areas.

10 1. When the president of the United States declares a major
11 disaster exists in this state, or the governor proclaims a
12 state of disaster emergency exists pursuant to section 29C.6,
13 the court may double the minimum fine under section 903.1,
14 the minimum civil penalty pursuant under section 907.14,
15 or any other civil penalty for the following misdemeanor
16 criminal offenses or civil violations committed against or
17 involving disaster-affected property in a disaster area if the
18 offender knew or reasonably should have known the property was
19 disaster-affected:

20 *Oa.* Illegal dumping or discarding of waste-related offenses
21 in violation of section 455B.307 or 455B.307A.

22 *a.* Arson in violation of section 712.4.

23 *b.* Reckless use of fire or explosives in violation of
24 section 712.5.

25 *c.* Explosive or incendiary material or device offenses in
26 violation of section 712.6, subsection 2 or 3.

27 *d.* Burglary-related offenses in violation of section 713.6A,
28 subsection 2, or section 713.6B or 713.7.

29 *e.* Theft offenses in violation of section 714.2, subsection
30 3, 4, or 5.

31 *f.* Criminal mischief offenses in violation of section 716.5
32 or 716.6.

33 2. For purposes of this section, property shall be
34 considered disaster-affected if the property sustained more
35 than de minimis structural damage in the disaster. Factors

1 to be considered in determining whether the offender knew or
 2 reasonably should have known the property was disaster-affected
 3 include but are not limited to the following: the visibility
 4 of the structural damage; the repair work, if any, performed
 5 or in the process of being performed on the affected property;
 6 and whether any notice was posted on the affected property
 7 indicating that certain crimes committed on such property are
 8 subject to the doubling of fines and penalties. Notice may
 9 but is not required to be posted on the property indicating
 10 the property was disaster-affected and that certain crimes
 11 committed on the property are subject to the doubling of fines
 12 and penalties.

13 3. The doubling of fines and civil penalties pursuant to
 14 this section shall apply to criminal offenses identified in
 15 this section committed during the incident period under the
 16 disaster declaration or proclamation and for three years after
 17 the end date of the incident period.

18 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
 19 immediate importance, takes effect upon enactment.

20 EXPLANATION

21 This bill provides for the doubling of criminal fines and
 22 civil penalties in disaster areas.

23 Under the bill, if the president of the United States
 24 declares a major disaster exists in this state, or the governor
 25 proclaims a state of disaster emergency exists, the minimum
 26 fine or civil penalty may double for certain criminal offenses
 27 and civil violations committed in the disaster area, if the
 28 offender knew or reasonably should have known the property was
 29 disaster-affected.

30 The bill requires disaster-affected property to sustain
 31 more than de minimis structural damage in the disaster for
 32 the doubling of fines and penalties to apply. Under the
 33 bill, the factors to be considered in determining whether the
 34 offender knew or reasonably should have known the property
 35 was disaster-affected include but are not limited to the

1 following: the visibility of the structural damage; the repair
2 work, if any, performed or in the process of being performed
3 on the affected property; and whether any notice was posted on
4 the affected property indicating that certain crimes committed
5 on such property are subject to the doubling of fines and civil
6 penalties.

7 Under the bill, the owner of disaster-affected property
8 may, but is not required to, post a notice on the property
9 indicating the property was disaster-affected and that certain
10 crimes committed on the property are subject to the doubling
11 of fines and civil penalties.

12 The doubling of fines and civil penalties applies to
13 criminal offenses and civil violations committed during the
14 disaster declaration or proclamation and for three years after
15 the date the disaster or disaster emergency ends.

16 The bill doubles the minimum fine under Code section 902.9 or
17 the civil penalty under Code section 907.14 for the following
18 felony offenses: Code sections 711.3 (robbery in the second
19 degree), 711.4 (extortion), 712.3 (arson), 712.6 (explosive
20 or incendiary materials offenses), 713.4 (attempted burglary
21 in the first degree), 713.5 (burglary in the second degree),
22 713.6 (attempted burglary in the second degree), 713.6A(1)
23 (burglary in the third degree), 714.2(1) (theft in the first
24 degree), 714.2(2) (theft in the second degree), 716.3 (criminal
25 mischief in the first degree), and 716.4 (criminal mischief in
26 the second degree).

27 The bill also doubles the minimum fine pursuant to
28 Code section 903.1 or the civil penalty for the following
29 misdemeanor offenses or civil violations: Code sections
30 455B.307 (illegal dumping), 455B.307A (discarding of waste),
31 712.4 (arson), 712.5 (reckless use of fire or explosives),
32 712.6 (explosive or incendiary materials offenses), 713.6A(2)
33 (burglary in the third degree), 713.6B (attempted burglary
34 in the third degree), 713.7 (possession of burglar's tools),
35 714.2(3) (theft in the third degree), 714.2(4) (theft in the

1 fourth degree), 714.2(5) (theft in the fifth degree), 716.5
2 (criminal mischief in the third degree), and 716.6 (criminal
3 mischief in the fourth and fifth degrees).
4 The bill takes effect upon enactment.